

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2001-375

August 9, 2001

PUBLIC UTILITIES COMMISSION  
Repeal of Chapters 340, Fuel Adjustment  
for Electric Utilities, and 341 Fuel Cost  
Adjustment for Small Electric Utilities

ORDER REPEALING  
RULES

WELCH, Chairman; DIAMOND and NUGENT, Commissioners

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**I. SUMMARY**

In this Order we repeal Chapters 340 and 341 of the Commission's Rules (65-407 CMR 340, 65-407 CMR 341), Fuel Adjustment for Electric Utilities and Fuel Cost Adjustment for Small Electric Utilities, respectively.

**II. BACKGROUND**

These rules established calculation methods for fuel costs and were originally created to implement 35-A M.R.S.A. § 3101 (repealed effective March 1, 2000)(formerly 35 M.R.S.A. § 131). Section 3101 required electric utilities with total assets of \$40,000,000 or more to include as part of their base rates a reasonable cost for fuel and to adjust rates for changes in fuel costs. The statute also allowed electric utilities with less than \$40,000,000 in assets to make similar adjustments. The Legislature repealed Section 3101 effective March 1, 2000, as part of electric restructuring, rendering these rules unnecessary. P.L. 1999, ch. 398, § A-42.

We proposed repealing Chapters 340 and 341 in our Order in this docket issued on June 19, 2001. We invited written comments on our proposal and received them from Central Maine Power (CMP), the Office of the Public Advocate (OPA), and Bangor Hydro-Electric (BHE).

CMP and the OPA support the proposal to repeal Chapters 340 and 341. Both noted that electric restructuring has rendered the Rules superfluous and that they should be repealed since the Commission now lacks statutory authority to promulgate fuel cost adjustment rules. The OPA also commented on the general benefit of repealing obsolete rules to avoid unintended consequences.

Bangor Hydro-Electric also expressed support for the proposal to repeal Chapters 340 and 341 with the understanding that "the repeal of the fuel cost adjustment for small electric utilities would not effect the Commission's authority to allow small electric utilities, such as Swans Island and Isle au Haut, which make wholesale power purchases to supply their retail customers, to reconcile their actual purchased power costs with their estimated costs when setting rates." *Comments, Bangor Hydro-Electric*, Docket No. 2001-375 (July 27, 2001). BHE is apparently

referring to our recent orders approving transmission and distribution utility rates for a number of consumer-owned utilities. There we allowed the utilities to include in their rate schedules an automatic adjustment clause to reflect changes in the cost of transmission wheeling charges. See e.g., *Maine Public Utilities Commission, Investigation of Stranded Costs, Transmission and Distribution Utility Revenue Requirements and Rate Design of Swan's Island Electric Cooperative, Inc.*, Docket No. 98-603 at 3 (Jan. 31, 2000). These are not fuel costs and are not passed through pursuant to a fuel clause. Therefore repeal of Chapter 341 will not impact this arrangement.

Based on the comments received and our determination that Chapters 340 and 341 are no longer statutorily authorized, we repeal Chapters 340 and 341.

Accordingly, we

### O R D E R

1. That the Administrative Director send copies of this Order to:

The Secretary of State for publication in accordance with 5 M.R.S.A. §§ 8053(5) and 8056(D);

Executive Director of the Legislative Council, State House Station 115, Augusta, Maine 04333 (20 copies).

2. That the Administrative Director send notice of this order to:

All transmission and distribution utilities in the State;

All persons having filed with the Commission within the past year a written request for Notice of Rulemaking.

3. That the Administrative Director send a copy of the Order Repealing Rules to the Secretary of State for publication in accordance with 5 M.R.S.A. §§ 8053(5) and 8056(D).

Dated at Augusta, Maine, this 9th day of August, 2001.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:

Welch  
Nugent  
Diamond

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.